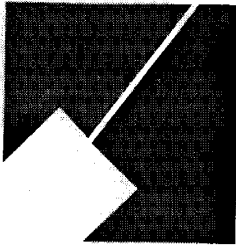


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

#6

January 30, 2004

To: Montgomery County Planning Board

Via: Joseph R. Davis, Chief Development Review Division

From: A. Malcolm Shaneman, Supervisor Development Review Division

Subject: Preliminary Plan No. 1-04008 Glen Echo Heights

At the public hearing of November 13, 2003, on Preliminary Plan No. 1-04008 Glen Echo Heights, the Planning Board voted to defer action on the application to allow the staff and the applicant to further review the issues related to tree preservation and drainage. The issues regarding tree preservation and drainage were raised by nearby residents during testimony on the application. The Board directed staff to investigate the concerns and meet with the residents to further understand current area conditions.


Staff has met with the residents and has met other County staffs at the site to completely understand the pre-construction conditions and anticipate post construction effects. To date staff believes that they have addressed the issues regarding tree preservation to the satisfaction of the residents. The drainage issues that exist in the immediate community involve areas located on private property and are not currently under the County's maintenance authority. Should the community request County involvement to assist in addressing the storm drainage issues, staffs of both the Department of Public Works and Transportation and Department of Permitting Services have expressed a willingness to open discussions. The community involvement is essential in this endeavor since much of the improvements will need to be placed on private properties.

Attached to this memorandum is a summary of events that have taken place since the last hearing on this preliminary plan application. The first attachment to this memorandum deals specifically with tree preservation issues and addresses the concerns raised at the previous hearing. The second attachment includes the amended staff report. The staff report includes the analysis under 50-29(b)(2) "Resubdivision" and reflects the staff recommended conditions of approval.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

TO: Montgomery County Planning Board

FROM: Stephen Federline, County-Wide Environmental Planning 

SUBJECT: **Overview of Tree Save Requirements in Chapter 22A, the Forest Conservation Law, as they relate to Preliminary Plan # 1-04008 (GLEN ECHO HEIGHTS), and Final Tree Save Plan Requirements for Preliminary Plan # 1-04008**

PREFACE

This memo addresses two issues that were to be further addressed and analyzed by staff as a result of testimony and Board discussion at the earlier hearing on November 13, 2003:

1) revisions to both the Tree Save Plan and Preliminary Plan for consistency and to further analyze and provide tree save and 2) overview and requirements of the forest conservation law in regard to the subject property.

OVERVIEW OF APPLICABILITY OF THE FOREST CONSERVATION LAW (Chapter 22A): Tree Save

One purpose of the forest conservation law (Chapter 22A of the County Code) is to "save, maintain, and plant trees and forests," and the law establishes priorities for preservation and requirements for mitigating forest loss and planting new forest (afforestation/reforestation) to accomplish this purpose. Section 22A-2(b)(1). Another purpose that is applicable to the subject site is to minimize tree loss and protect trees during and after construction Section 22A-2(b)(2).

For small properties (less than 1.5 acres), the Forest Conservation Law provides an exemption from the requirement to provide a Forest Conservation Plan. The exemption reflects recognition that preserving or planting any real forest is not feasible on a small lot. This property satisfies the conditions for a "small property" exemption from forest conservation per Section 22-A-5(r). The relevant exemption language states that an exemption may be granted for:

(r)(2) an activity occurring on a tract of land less than 1 acre that will not result in the clearing of more than 30,000 square feet of forest, or any specimen or

champion tree, and reforestation requirements would not exceed 10,000 square feet. Forest in any priority area on site must be preserved.

Because the total area of the subject tract is 34,850 square feet (0.8 acres), or less than one acre, this Plan qualifies for the forest conservation plan exemption quoted above; however, the Plan is subject to a Tree Save Plan under the Forest Conservation Law, as is stated on the attached Forest Conservation Recommendations sheet, dated June 23, 2003. The Forest Conservation Recommendations document references Section 22A-6(b), the "Tree Save Plan" provision of the Forest Conservation Law, which states, in relevant part:

(b) Tree save plan provision. An activity or development that would be exempt under Section 22A-5, except that the proposed activity involves clearing of a specimen or champion tree, requires approval of a tree save plan, which may require tree preservation or mitigation for loss of individual trees.

As noted in the attached Forest Conservations Recommendations document, and as is discussed in greater detail below, the subject property includes specimen trees. Therefore, the action by the Board must include an acceptable tree save plan to satisfy the conditional approval of the forest conservation exemption.

The Board should note that, although the revisions to the Forest Conservation Law in 2001 strengthened tree save requirements, the Law does not provide specific requirements for which trees to save.

Glen Echo Heights Tree Save Plan

Per the Board's concerns at the earlier hearing, the applicant's arborist has conducted a more detailed analysis with specific recommendations for protection and preservation of certain onsite and offsite trees. Staff has reviewed and recommends approval of the revised "Tree Preservation Plan," dated December 3, 2003, with conditions. Two of five specimen-size trees will be saved, including the 55" White Oak just behind the existing house at 6008 Walhonding Road. Three trees are being preserved along the southern property line: a 24" hickory, a 14" locust, and a 30" tulip tree (just offsite). In addition, the applicant has offered to take down a 27" black locust in poor condition on adjacent Lot 6, at his expense, if desired by the Owner of Lot 6.

Revised conditions of approval are as follow:

Compliance with all recommendations included on final Tree Preservation Plan dated December 3, 2003 under the supervision of a certified arborist or licensed tree expert. The final plan requires saving six trees, including a 55" White Oak and three trees along the southern property line. The following standard conditions apply:

XX Record plat to show category two easement over the entire property, with record plat reference to final approved tree save plan.

XX Required site inspections by M-NCPPC monitoring staff (as specified in "Trees Technical Manual")

XX Arborist must be onsite at critical times as deemed necessary by MNCPPC inspector.

SDF:sdf

**MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
FOREST CONSERVATION RECOMMENDATIONS**

TO: Elise Cary, Wiltmer and Associates (fax: 301-738-7714)

SUBJECT: Project Name Glen Echo Heights, Lots 3 and 4, Block 18
Date Recd 5/20/03 NRI/FSD # 4-03320E

The above-referenced plan has been reviewed by the Environmental Planning Division to determine the requirements of Chapter 22A of the Montgomery County Code (Forest Conservation Law). A determination has been made that the plan qualifies for the following exemption:

EXEMPTION:

Small Property

Activity occurring on a tract less than or equal to 1 acre in size where activity will not result in the clearing of more than 30,000 square feet of existing forest, or any specimen or champion trees, and reforestation requirements would be less than 10,000 square feet.

Note: Tree Save Plan, including preservation and/or replanting of individual trees is required in lieu of a FCP where trees are impacted. Forest within any priority area on-site must be preserved.

NOTE: Per section 22A-6(b) of the Forest Conservation Law, Tree Save Plans may be substituted for Forest Conservation Plans on properties where the proposed development is exempt from Forest Conservation except that it involves clearing of specimen or champion trees.

This property is subject to a Tree Save Plan.

Tree protection measures are required; sediment control permit should not be released until MNCPPC staff has approved the Tree Save Plan.

MNCPPC inspector must be contacted for pre-construction inspection of tree protection measures and authorization to begin any tree clearing.

This property is not within a Special Protection Area*.

* Properties within a Special Protection Area (SPA) must submit a Preliminary Water Quality Plan. Contact Leo Galanko at MCDEP for information regarding the requirements (240-777-6242).

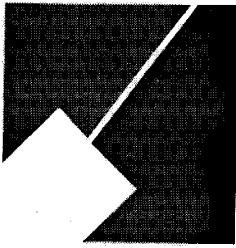
Comments Tree-save plan will be required at the preliminary plan review stage. At a minimum, tree-save plan should include preservation of specimen white oak.

Signature: Candy Bunnag
, Environmental Planning

Date: 6/23/03

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MEMORANDUM

DATE: January 30, 2004

TO: Montgomery County Planning Board

VIA: Joseph R. Davis, Chief Development Review Division

FROM: A. Malcolm Shaneman, Supervisor (301) 495-4587
Richard A. Weaver, Senior Planner (301) 495-4544
Development Review Division *AMCS*
RAW

REVIEW TYPE: Preliminary Plan Review

APPLYING FOR: Resubdivision of Lots 3 and 4 Block 18, Glen Echo Heights

PROJECT NAME: Glen Echo Heights

CASE #: 1-04008

REVIEW BASIS: Chapter 50, Sec. 50-29 (b)(2), Montgomery County Subdivision Regulations
Chapter 59, Montgomery County Zoning Ordinance

ZONE: R-90

LOCATION: In the southeast corner of the intersection of Walthonding Road and Wapakoneta Road

MASTER PLAN: Bethesda – Chevy Chase

APPLICANT: Carter Wilson

FILING DATE: July 30, 2003

HEARING DATE: February 5, 2004 (Original Hearing November 13, 2003)

STAFF RECOMMENDATION: Approval, Pursuant to Section 50-29 (b)(2), Montgomery County Subdivision Regulations and Subject to the Following Conditions:

1. Compliance with all recommendations included on final Tree Preservation plan dated December 3, 2003. The final plan indicates saving six trees, including a 55" White Oak and tree trees along the southern property line. The following standard conditions apply:
 - a. Record plat to show Category II easement over the entire property, with record plat reference to final tree save plan
 - b. Applicant is required to provide for site inspections as specified by staff and provide an arborist on site at critical times, as deemed necessary by staff
2. Setbacks for proposed Lot 36 to be in accordance with Board of Appeals Opinion for Case No. A-5836, and reflected on record plat
3. Compliance with the conditions of approval of the MCDPS stormwater management approval
4. Prior to issuance of building permits, applicant to submit an engineered sediment and erosion control plan to MCDPS for review and approval
5. Compliance with conditions of MCDPWT letter dated, November 3, 2003 unless otherwise amended
6. This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed
7. The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion
8. Other necessary easements

DISCUSSION OF ISSUES

Conformance to Chapter 50-29(b)(2)

In order to approve an application for Resubdivision, the Planning Board must find that the proposed lot(s) comply with all seven of the "Resubdivision Criteria" as set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

"Resubdivision. Lots on a plat for the Resubdivision of any lot, tract or other parcel of land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision."

Defined Neighborhood

In administering the Resubdivision section, the Planning Board must delineate an area within which it conducts its lot character analysis. In this case, staff recommends a neighborhood delineation that will enable the Board to effectively determine whether the proposed lots comply with the resubdivision criteria with respect to the character of those existing recorded lots most impacted by the proposed Resubdivision. Below, staff has provided a description of the area analyzed under the resubdivision criteria and has also attached to this staff report an illustration, which delineates the neighborhood.

In defining the appropriate neighborhood for lot character comparison purposes, it has been long-standing Planning Board practice, facts and circumstances permitting, to limit the neighborhood to

include only lots within the same zone and developed under the same standards as the subject property. All lots in proximity to the subject property are zoned R-90. In this case, the neighborhood used for evaluation consists of lots within close proximity to the subject property and includes a portion of the lots within the same block (Block 18) as the subject property, the confronting lots across Wapakoneta Road and the confronting lots across Walhonding Road. (See neighborhood delineation map) Given the consistency of the lot characteristics in the greater neighborhood, staff felt that expanding the defined neighborhood to include the entirety of Block 18 was unnecessary in that it would not have provided any additional lot characteristics that would have added to this resubdivision evaluation exercise. Part of Lot 1, Block 17, was excluded because it is an unplatted remainder of a previously recorded lot.

Master Plan Compliance

The property is located within the Approved and Adopted Bethesda - Chevy Chase Master Plan area. The master plan does not specifically identify this property but does give general guidance and recommendations regarding zoning and land use. The master plan recommends that this area maintain the residential zoning as adopted. The proposed resubdivision, if approved, would comply with the recommendations adopted in the master plan.

DESCRIPTION

Vicinity

All of the lots in the defined neighborhood were recorded in 1891-1892. Three resubdivisions have altered the original lot pattern. The first, in 1952, created lots 23, 24 and 25, which abut the subject property to the east. The second resubdivision occurred in 1964 and involved the majority of the lots to the south of the subject property within block 18. The third resubdivision occurred in 1964 and created Lot 23 to the west of the subject property. This resubdivision also created Part of Lot 1, which was never recorded by plat. Again, Part of Lot 1 was not included in the defined neighborhood. The lot pattern in the defined neighborhood has remained unchanged since then.

Proposal and Analysis

Staff has provided two resubdivision tables for comparison. One ranks the lots by size, the other ranks the lots by area.

This application for resubdivision proposes to create three lots from Lots 3 and 4, Block 18, Glen Echo Heights. Proposed Lot 37 will access Walhonding Road, Lots 36 and 38 will access Wapakoneta Road. The applicant has received a variance of 5 feet from the established building setback along Wapakoneta Road from the Board of Appeals for the construction of a house on the corner lot, Lot 36. Construction of the house on this lot is approved under a building permit.

Of particular interest to staff is the preservation of a 54-inch Oak tree on the property on proposed lot 37. The applicant, at the request of staff, submitted a detailed arborist study to determine the most feasible means to save the tree. The report has recommended specific measures that will be required to preserve this tree. Staff has addressed the preservation of this tree through the conditions of approval.

The plan proposes three lots of comparable size: (12,100, 11,600 and 10,800 square feet). As shown on the attached tabular summary, the lots are within the range of lots sizes for the defined neighborhood that range from 14,384 square feet to 6,284 square feet. Similarly the tabular summary